

B) REMARKS:**1. Introduction**

Claims 1-7, 10, 11, 13-16, 18 and 19 are currently pending in this application. Claims 1, 18 and 19 are independent. Certain amendments to claims 1, 18 and 19 have been entered herein in response to the Examiner's rejections in the Office Action, as detailed hereinbelow.

Other amendments to the pending claims have been made to clarify the scope of that which the Applicants regard as his invention, and are not meant to limit the scope of such claims as existed prior to such amendments or limit the applicability of any equivalents thereto.

No new subject matter has been added to this application by these amendments.

2. Rejection of Claims under 35 U.S.C. §112, second paragraph

The Applicant gratefully acknowledges the Examiner's acceptance of previous arguments regarding whether claim 1 includes a toilet, as relayed in paragraph 2 of the Office Action. Such arguments with respect to claim 1 are continued herein.

In paragraph 2 of the Office Action, the Examiner has rejected claims 1 and 19 under 35 U.S.C. §112, second paragraph, as "failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention" with regard to whether the toilet is part of the claimed combination.

In response thereto, the Applicant has amended the language of claim 1 in accordance with the Examiner's suggested language in paragraph 2 of the Office Action, which the Applicant acknowledges and adopts with appreciation. In addition to adopting the proposed language "for being disposed on" or "disposable on," the Applicant has further defined left and right sides of a conventional toilet, in response to comments from the Examiner at paragraph 4, page 4 of the Office Action. Accordingly, Applicant believes that the relationship of the toilet and the Applicant's apparatus is now particularly pointed out and distinctly claimed due to such amendments. Therefore, reconsideration and withdrawal of this rejection of claim 1 is respectfully requested.

The Applicant does not believe that this rejection is applicable to method claim 19, due to its nature as a method claim. Nonetheless, to the extent that this method must be performed in conjunction with a toilet having the recited apparatus, the Applicant has amended claim 19 in a manner similar to claim 1. Accordingly, reconsideration and withdrawal of this rejection of claim 19 is likewise respectfully requested.

3. Rejection of Claims under 35 U.S.C. §102(b) and §103(a)

In paragraphs 3-6 of the Office Action, the Examiner has rejected claims 1, 2, 5-7, 13-16, 18 and 19 under 35 U.S.C. §102(b) in view of U.S. Patent No. 2,705,330 to Knudsen, and has rejected claims 3, 4, 10 and 11 under 35 U.S.C. §103(a) as obvious over Knudsen in view of U.S. Patent No. 1,863,682 to Alberts. These rejections have each been overcome by the following amendments entered to the Applicant's independent claims 1, 18 and 19 herein, in which variations of the following recitations have been entered:

(a) a toilet having a left side, a right side, a bowl disposed between the left side and the right side toward a front of the toilet, and a tank disposed between the left side and the right side toward a rear of the toilet; and

(b) a first bracket and a second bracket disposed between a tank and a bowl of a toilet, the first bracket disposed on a left side of the toilet and the second bracket disposed on a right side of the toilet.

Claims 1 and 18 further recite that a lever is disposable on either a left end or a right end of the first geared shaft.

Support for these recitations can be found, inter alia, in FIGS. 1-5 of the present application and Applicant's Specification at, inter alia, paragraphs 0019, 0020 and 0025. The Applicant has been mindful of the provisions of MPEP §§608.01(p) and 714.02 in making these amendments.

Claims 1, 18 and 19 as amended are neither taught nor suggested by any of the prior art of record, or by any combination of the teachings of the same.

First, none of the prior art of record, or any combination of the same, teach the placement of a first bracket on a left side of the toilet and a second bracket on the right side of the toilet, and

between the tank and the bowl thereof, as now recited. Applicant believes that this description of the brackets is sufficient to convey to one of ordinary skill in the art how the Applicant's apparatus is placed with respect to a toilet. It will be further appreciated that these brackets then secure both geared shafts along the entire width of the bowl, and not just on one side thereof, as previously argued by the Examiner. Applicant asserts that Knudsen in particular does not show or suggest such placement of the brackets, since the entire apparatus of Knudsen is disposed on one side of the toilet only (see Fig. 2 of Knudsen and Col. 1, lines 51-55 thereof in which Knudsen admits that his apparatus is disposable only on "either the right or left hand side of the bowl").

In addition, none of the prior art of record, or any combination of the same, teach the use of two separate geared shafts as recited by the Applicant in elements (b) and (c). While the references do teach use of simple gears, geared shafts are distinguishable in that their width, which must extend substantially both sides of a toilet, greatly exceeds their radius. (see FIGS. 3-5 of the application). Gears, on the other hand, typically have a radius that is greater than their width. The use of geared shafts, and not simple gears, contributes to the durability of the Applicant's design, as referenced in paragraph 0009 of the Specification. Since the Applicant's apparatus has ends on both sides of the toilet, the lever used to raise and lower the toilet seat is attachable to Applicant's geared shaft at either a left side or a right side thereof as desired (see, e.g., Applicant's Specification at paragraph 0025). As one of ordinary skill in the art will readily appreciate, placement of the lever on either side of the toilet may therefore be accomplished without having to reposition the entire apparatus, as with prior designs. Thus, the length of geared shafts are a distinction of the common gears in the Knudsen, which shows common gears and the brackets therefore disposed on one side of a toilet only. In addition, such placement of the Applicants' brackets on opposing (left and right) sides of the toilet provides several advantages and improvements thereover, including the ability to place the lever on either end of the geared shaft (and thereby, the toilet) without having to displace the entire apparatus to one side of the toilet or the other.

Alberts does not cure this defect in the teachings of Knudsen, as it too is devoid of teachings or suggestions of placement of separate brackets securing geared shafts at opposing

sides of a toilet between the tank and the bowl. Alberts teaches placement of his gears and the brackets therefor on only one side of the toilet (see, e.g., FIGS. 1 and 2 of Alberts).

In light of the foregoing, reconsideration and withdrawal of these rejections of claims 1, 18 and 19 under 35 U.S.C. §§102(b) and 103(a) for the reasons above are respectfully requested. Reconsideration and withdrawal of the rejection of each remaining dependent claim is likewise respectfully requested based on their ultimate dependency of one the independent claims.

4. Conclusion


The Applicant acknowledges the remaining paragraphs of the Office Action. This amendment is responsive to each issue raised in the Office Action dated February 10, 2005. All objections and rejections of pending claims have been addressed and overcome above. The Applicant therefore respectfully requests allowance of each of the pending claims as presented herein, and issuance of the present application.

The undersigned representative requests a telephonic interview with the Examiner, if it will advance the prosecution of this application.

In the event that a further extension of time is required in addition to that requested previously herein, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time, or credit any overpayment, to the below-signed practitioner's deposit account number: 502396.

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Respectfully submitted,

By: 

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